

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,  
INDIANA, WILL HOLD A REGULAR COUNCIL MEETING IN THE THIRD  
FLOOR ASSEMBLY ROOM OF THE CITY/COUNTY BUILDING ON  
THURSDAY, APRIL 17, 2008 AT 7:30 P.M.**

The meeting of the **New Albany City Council** was called to order by President Jeff Gahan at 7:32 p.m. The meeting opened with the Lords Prayer and the Pledge of Allegiance.

**MEMBERS PRESENT:** Council Members Mr. Coffey, Mr. Caesar, Mr. Price, Mr. McLaughlin, Mrs. Benedetti, Mr. Gonder, Mr. Messer, Mr. Zurschmiede and President Jeff Gahan.

**OTHERS:** Council Attorney Jerry Ulrich and City Clerk Marcey Wisman.

**ALSO:** Deputy Mayor Carl Malysz, Asst. Director of City Operations Matt Denison, John Rosenbarger and Scott Wood.

**APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:**

**Mr. Coffey moved to approve the April 7<sup>th</sup> meeting minutes, Mr. Caesar second, all voted in favor.**

**COMMUNICATIONS – PUBLIC:**

**Jeff Roudenbush** addressed the council regarding the zoning for the Go for Less pawn shop. He stated that Mr. Naville showed them at the last meeting that Mt. Tabor is the next developing corridor for commercial business with the pictures. He stated that they have nothing to lose by allowing this change because he is the one taking the risk of whether or not his business with succeed or fail.

**Mr. John Boyett**, managing member of Go for Less, LLC, informed the council that this business needs to go into the area because there is a steady stream of people in the area. He stated that Jack should have moved this business two years ago after the Kroger store left the shopping center because is has lowered the amount of business to his store. He stated that Jack is a very reputable business man and many of his customers informed him that they will follow him out to Mt. Tabor Road. He stated that if they are not allowed to move they will probably be forced to close.

**Debbie Whacker, 415 Mt. Tabor**, stated that she has lived in this neighborhood for 30 years and she and her neighbors do not feel that a pawn shop would be an appropriate business for this area. She stated that she does not think that the people that go to pawn shops are reputable and she would be frightened to be there by herself while her husband is away at work.

**Mr. Gary Whacker** stated that Mr. Naville said that this building has been vacant for 5 years and that is not true. He stated there are not 25 to 30 commercial businesses in that area. He stated that he does own the lawnmower repair business but he is light industrial. He stated that he would appreciate it if they would vote against this.

**Peter Boyce** took some aerial photos of the piece of property that is being voted on and he explained the different areas of the photos stating that a majority of the areas are zoned industrial. He stated that when he first moved in he came to the zoning board to find out what he could do with the property and he was told that it was all to be zoned industrial and he could possibly put in some service type of business. He stated that it is clear that the entire area is industrial and he can't think of any reason to put any commercial business in this area.

**Mr. Deich** asked that they give him a chance to make his business work so that he and his family can stay in New Albany. He explained that he has never had any problems with his business and he just wants to keep something that he has built from the ground up going.

**Mr. Messer** asked him what hours he keeps.

**Mr. Deich** stated that they are open from 10 a.m. to 6 p.m. Monday-Saturday and explained that he has a \$10,000 security system and he has never had any problems what so ever with break-ins or being held up or anything of that nature.

#### **COMMUNICATIONS – CITY OFFICIALS:**

**Mr. Wood** addressed the council regarding Go for Less and issues that were brought up regarding other businesses in the area that have been characterized as retail but stated that they are actually light industrial. He stated that the two businesses that are illegally there will be notified but a zoning violation is not a reason to change the zoning in the area. He also informed the council that May is Historic Preservation Month and invited the members to the events that are planned.

**Mr. Price** asked if they wanted all that area to be industrial why the strip mall was allowed to go in.

**Mr. Woods** stated that it isn't a strip mall it is a multi-tenant building that has meet all the developments standards to permit multiple tenants in there that are permitted by the I-1b by right except for the boutique and hair saloon.

**Mr. Price** asked about the lawnmower repair shop.

**Mr. Wood** stated that they had a variance and it is light industrial.

**Mr. Gonder** asked how it happened that these two businesses were unnoticed because it was his understanding that they had to request permission.

**Mr. Wood** stated that they simply slipped through the cracks because they have over 25,000 parcels in New Albany and it is impossible to keep an eye on each and every one. He stated when they are made aware of violations they inform the owners that they are in violation and give them the alternatives.

**Mrs. Benedetti** asked why they can't just send one of their officers out there.

**Mr. Wood** stated that they do not have zoning officers. He stated that the Plan Commission shares responsibility for enforcement of zoning violations and they handle 30-35 complaints a year.

**Mr. Messer** stated that it is such a small section that he doesn't see how light industrial would use it. He asked if the City made any attempt to buy the parcels on either side at any time and asked if it is basically a light industrial in the middle of two residential.

**Mr. Wood** stated that the City didn't make an attempt to buy the parcels and they are not zoned residential.

**Mr. Messer** stated that Mr. Deich is supplying a service and it looks to him like both parcels surrounding that piece of land are service businesses as well.

**Mr. Wood** stated that the difference is that he is not operating out of existing legal residence. He stated that this is an industrial building built for an industrial purpose that is being turned into a retail business.

**Matt Denison** informed the council that the next two weekends they will be having neighborhood clean up days and detailed the plans they had for the future. . He stated that they hope to involve all the neighborhood associations to accomplish more this year.

**Mr. Gonder** stated that he just learned this evening that the drinking water in the fountain is not suitable for human consumption and that the different department heads are purchasing their own drinking water. He stated that the individuals who come to these meetings should have access to some drinkable water and wanted to know what they could do about it.

**Mr. Coffey** stated that they should hold up the rent check to the Building Authority until they correct this issue.

**Mr. Malysz** stated that he appreciates their concerns and if they wanted to write up some type of resolution then he and Ms. Wisman would be more than happy to take it to the Building Authority.

**Ms. Wisman** stated that there was an actual study done two years ago where they tested the water and it was declared unsuitable for human consumption because the piping in the building is so old that it was leaking large quantities of mineral into the water and the Building Authority was told to either replace the fountain or provide filtered water and they refused.

**Mr. Gonder** stated that if it is appropriate to bring this to some type of written resolution he would be more than happy to meet them at the end of the meeting.

**Mr. Gahan** stated that they should put this on the next meeting agenda.

#### **COMMUNICATIONS – MAYOR**

**Mr. Malysz** stated that he just received an email from Mayor England from Japan and that he wishes them all his best and it sounds as if his trip is being productive. He also stated that in the past the clean up was just a spring clean up but they are planning to have seasonal clean ups in order to have year round cleanings. He informed the council that the Mayor has asked them to approve his appointment of Maury Goldberg to the Historic Preservation Commission. He also discussed R-08-16.

#### **APPOINTMENTS:**

**Historic Preservation Commission – Maury Goldberg (Chosen by Mayor England)**

**Mr. Price moved to approve, Mr. McLaughlin second, all voted in favor.**

#### **APPROVAL OF CF-1 FORMS:**

#### **INTRODUCTION OF ORDINANCES AND RESOLUTIONS:**

#### **READING**

R-08-16	Resolution Concerning Statement of Benefits for Insulated Roofing Contractors, Inc., by the Common Council of the City of New Albany	Price
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**Mr. Price moved for the reading of R-08-16, Mr. Zurschmiede second,**

**Mr. Price** stated that he has quite a few questions regarding this abatement. He stated that they are currently working on a new procedure for tax abatements and this is a new one and if they let this go through then they will have to let others go through.

**Mr. Malysz** stated that he wants to distinguish the difference between this abatement from another that came before them recently. He stated that he is not trying to be disparaging towards L&D Mailmasters but they were already in the industrial park and purchased the building prior to asking for the abatement. This gentleman has not purchased the building yet and it will be contingent upon the property tax abatement. He is planning to move his business here from Bluegrass Industrial Park and bring 105 employees. He explained other benefits of bringing this business to the council.

**Mr. Coffey** stated that they have a little information in front of them that looks good but he doesn't think they have all of the information to make a decision and he thinks they need to be here to answer questions.

**Mr. Zurschmiede** stated that he has questions for the business owner and would not feel comfortable moving forward without the business owner there to answer the council's questions.

**Mr. Price withdrew his motion and tabled the resolution.**

**Mr. Zurschmiede withdrew his second.**

**Mr. Malysz** stated that he would convey the message and ask them to be here.

G-08-06	An Ordinance Establishing Public Health Safeguards for Food Establishments and Bed and Breakfasts In Floyd County, Indiana	Caesar 1
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**Mr. Caesar moved for the first reading of G-08-06, Mr. Coffey second, all voted in favor.**

**Mr. Caesar** stated that if anyone has any specific questions Mr. Reed Streigel is here to answer any questions they may have. He explained that this is simply to increase the fees that they are currently receiving for inspections and also to charge fees for repeat offenders.

**There was a lengthy discussion regarding the raised fees for inspections and what could be done with the extra income.**

Z-08-02	Ordinance Amending the Code of Ordinances of New Albany, Indiana, Title XV, Chapter 156 (Docket P-01-08: Go for Less, LLC)	Price 2
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**Mr. Price moved for the second reading only of Z-08-02, Mr. Messer second, the motion failed with four aye votes from Mr. Price, Mr. McLaughlin, Mrs. Benedetti, and Mr. Messer, and five nay votes from Mr. Coffey, Mr. Caesar, Mr. Gonder, Mr. Zurschmiede, and Mr. Gahan.**

**Mr. Price** stated that he wanted to move for a second reading only and invited each council member go out and take a look at this parcel to make their own judgments.

**Mr. Zurschmiede** stated that he knows Mr. Deich and he knows he is a reputable business man and good for the community, but they have a plan commission and he can not supersede their vote.

**Mr. Gonder** stated that he would echo that as well.

**Mr. Coffey** stated that in the 8 years he has been on the council he has never seen Mr. Wood feel so strongly about not changing zoning.

**Mr. Price** stated that when he went out it is his opinion that there are clearly retail businesses in the area and he doesn't see much difference other than individuals having some reservations about pawn shops in general.

**Mr. McLaughlin** stated that he did ride out to the area and he was concerned because it seems to be a miss-match of retail and commercial businesses and he knows that there are some residences that are concerned but he has a hard time trying to make a decision against an individual that is just trying to keep his business going. He stated that he is still undecided as to what this area actually is. He explained that he knows there are mistakes made but some businesses have slipped through the cracks for 2 years.

**Mr. Messer** stated that they need to take into consideration as well that he has given 10 years of his life and stayed in business in New Albany when he could have easily packed up and left when Kroger’s did. He stated that he is just a small business man trying to make a living and there are only two residential areas back there and the rest are also used for a service business.

**Mr. Wood** stated that this is an industrial area and once you start breaking that up you will never get it back. He stated that it is one of the cleanest areas in the city of New Albany and many responsible leaders have spoken out against it and to him it becomes an issue of are any of their citizens safe in the investments on their property if you start to change the rules in the middle of the game. He stated that the council has made some mistakes but they shouldn’t use that judgment to perpetuate making more mistakes. He explained that there is tens of thousands of retail space in New Albany and he just doesn’t believe this is the place for it.

Z-08-03            Ordinance Amending the Code of Ordinances of            Price 2&3  
New Albany, Indiana, Title XV, Chapter 156  
(Docket P-05-08: Jim Padgett)

**Mr. Price moved for the second and third reading of Z-08-03, Mr. Zurschmiede second, all voted in favor. Bill Z-08-03 became ordinance Z-08-12**

Z-08-04            Ordinance Amending the Code of Ordinances of            Price 2&3  
New Albany, Indiana, Title XV, Chapter 156  
(Docket P-06-08: New Albany Ford Tractor)

**Mr. Price moved for the first reading of Z-08-04, Mr. Messer second, all voted in favor. Bill Z-08-04 became ordinance Z-08-13.**

**ADJOURN:**

**There being no further business to be heard, the meeting adjourned at 9:03 p.m.**

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Jeff Gahan, President  
Common Council, City of New Albany

ATTEST: \_\_\_\_\_  
Marcey Wisman, City Clerk